

## **Item LEG06-05    Response Form**

**Title:**    Waiver of Court Fees and Costs (repeal Gov. Code, § 68511.3; replace with Gov. Code, §§ 68630.010–68630.100 (new article 6 of title 8, chapter 2))

- ☐ **Agree** with proposed changes
- ☐ **Agree** with proposed changes **if modified**
- ☐ **Do not agree** with proposed changes

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Name:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Organization:** \_\_\_\_\_

☐ **Commenting on behalf of an organization**

**Address:** \_\_\_\_\_

**City, State, Zip:** \_\_\_\_\_

Please **write** or **fax** or **respond using the Internet** to:

**Address:** Ms. Romunda Price,  
Judicial Council, 455 Golden Gate Avenue,  
San Francisco, CA 94102  
**Fax:** (415) 865-7664                      **Attention:** Romunda Price  
**Internet:** [www.courtinfo.ca.gov/invitationstocomment](http://www.courtinfo.ca.gov/invitationstocomment)

<b>DEADLINE FOR COMMENT:</b> 5:00 p.m., Friday, December 1, 2006
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Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council  
or the Policy Coordination and Liasion Committee.  
All comments will become part of the public record of the council's action.*

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Title	Waiver of Court Fees and Costs (Repeal Gov. Code, § 68511.3; replace with Gov. Code, §§ 68630.010–68630.100 (new article 6 of title 8, chapter 2))
Summary	The statute on proceeding in forma pauperis would be repealed and replaced with new provisions governing fee waivers to clarify eligibility, application procedure and processing, determination, reconsideration, and recovery of court fees and costs initially waived by the court.
Source	Fee Waiver Working Group Hon. Carolyn B. Kuhl, Chair Michael D. Planet, Cochair
Staff	Florence Prushan, Lead Staff, 818-558-3021, <a href="mailto:florence.prushan@jud.ca.gov">florence.prushan@jud.ca.gov</a> Cara Vonk, Counsel, 415-865-7669, <a href="mailto:cara.vonk@jud.ca.gov">cara.vonk@jud.ca.gov</a>
Discussion	<p>Current procedures for processing and granting a fee waiver are cumbersome and confusing for the applicant and the court. The statute should be drafted so that it can guide users through the process and be easily understood. The law and procedure should ensure that court fees are not a barrier to court access for those with insufficient economic means to pay those fees and that the court be allowed to recover previously waived fees when the applicant obtains a judgment or substantial settlement.</p> <p>The draft legislative proposal is largely consistent with the substantive provisions of existing law. A brief discussion of key differences between the current statute and the proposed statute is provided below.</p> <p><i>Organization and structure:</i> The draft proposal reorganizes the statutory provisions in current law to make them easier to follow and implement. It begins with findings that set forth the purpose of the new article and then lays out each of the aspects of the fee waiver and recovery program: criteria for eligibility, application procedure, application processing and determination, reconsideration, recovery of fees and costs initially waived, enforcement, and expiration of the fee waiver order.</p> <p><i>Eligibility:</i> The fee waiver eligibility provisions have been largely maintained as they exist in current law, but three new income-based entitlement programs have been added to the list of public benefit</p>

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programs for which recipients have an automatic right to an initial waiver of fees. These three programs are Cash Assistance Program for Immigrants (CAPI), In-Home Supportive Services (IHSS), and Medi-Cal. They have been added because the income eligibility requirements for these programs are similar to those of the other public benefit programs in current law, and adding them to the categorical list will provide administrative efficiency in processing fee waiver applications.

*Application processing and determination:* The draft legislative proposal lays out clear procedures and timeframes for acting on fee waiver applications. It specifies that a clerk cannot deny a fee waiver application on his or her own authority but may be delegated authority to grant one. It also limits the documentation that must be provided to support the application at the time it is filed. Finally, it provides that the court must provide notice to an applicant whose application is being denied of the reasons for denial and that the court must afford the applicant a reasonable opportunity to either correct the application if information is missing or to request a hearing to demonstrate eligibility. If the court has a reason to doubt the truthfulness of the application or finds that the applicant's eligibility is ambiguous, then the court must set an eligibility hearing and give the applicant at least 10 days' notice and specific reasons for the court's uncertainty.

*Reconsideration of fees and costs initially waived:* The proposal would enact new procedures for collecting fees in cases where an initial fee waiver has been granted and subsequent events indicate that recovery of the waived fees is appropriate. These procedures would (1) require the court to add any waived fees to a judgment in a civil case if the judgment is in favor of a party who received an initial fee waiver (this does not apply to unlawful detainer cases); (2) place an automatic lien on any settlement or other recovery of \$10,000 or more if the party collecting the recovery received a fee waiver; and (3) in family law matters, require the court to consider whether a party to a family law case who did not receive a fee waiver has the ability to pay the other party's fees, and/or review at the time of judgment whether changed circumstances allow a party whose fees were initially waived to pay all or part of the waived fees.

*Recovery:* The proposal would require the person who is requesting that the court enter a partial or full satisfaction of the judgment to file a declaration that the waived fees and costs have been paid. When there has been a recovery of \$10,000 or more by settlement or other means,

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the party requesting dismissal must file a declaration that the court lien has been paid. If the request is filed without the declaration, the court may issue an order to show cause why the court should not order the parties jointly and severally liable for the waived fees or why the lien should not be enforced. The text of the legislative proposal is attached.

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Attachment

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Government Code section 68511.3 would be repealed, and sections 68630.010–68630.100 would be added, to read:

**68511.3.** (a) The Judicial Council shall formulate and adopt uniform forms and rules of court for litigants proceeding in forma pauperis. These rules shall provide for all of the following:

- (1) Standard procedures for considering and determining applications for permission to proceed in forma pauperis, including, in the event of a denial of permission, a written statement detailing the reasons for denial and an evidentiary hearing where there is a substantial evidentiary conflict.
- (2) Standard procedures to toll relevant time limitations when a pleading or other paper accompanied by the application is timely lodged with the court and delay is caused due to the processing of the application to proceed in forma pauperis.
- (3) Proceeding in forma pauperis at every stage of the proceedings at both the appellate and trial levels of the court system.
- (4) The confidentiality of the financial information provided to the court by these litigants.
- (5) That the court may authorize the clerk of the court, county financial officer, or other appropriate county officer to make reasonable efforts to verify the litigant's financial condition without compromising the confidentiality of the application.
- (6) That permission to proceed in forma pauperis be granted to all of the following:
  - (A) Litigants who are receiving benefits pursuant to the Supplemental Security Income (SSI) and State Supplemental Payments (SSP) programs (Sections 12200 to 12205, inclusive, of the Welfare and Institutions **Code**), the California Work Opportunity and Responsibility to Kids Act (CalWORKs) program (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions **Code**), the Food Stamp Program (7 U.S.C. Sec. 2011 et seq.), or Section 17000 of the Welfare and Institutions **Code**.
  - (B) Litigants whose monthly income is 125 percent or less of the current monthly poverty line annually established by the Secretary of Health and Human Services pursuant to the Omnibus Budget Reconciliation Act of 1981, as amended.
  - (C) Other persons when in the court's discretion, this permission is appropriate because the litigant is unable to proceed without using money which is necessary for the use of the litigant or the litigant's family to provide for the common necessities of life.

–(b) (1) Litigants who apply for permission to proceed in forma pauperis pursuant to subparagraph (A) of paragraph (6) of subdivision

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1 ~~(a) shall declare under penalty of perjury that they are receiving~~  
2 ~~the benefits and may voluntarily provide the court with their date of~~  
3 ~~birth and social security number or their Medi-Cal identification~~  
4 ~~number to permit the court to verify the applicant's receipt of~~  
5 ~~public assistance. The court may require any applicant, except a~~  
6 ~~defendant in an unlawful detainer action, who chooses not to disclose~~  
7 ~~his or her social security number for verification purposes to~~  
8 ~~attach to the application documentation of benefits to support the~~  
9 ~~claim and all other financial information on a form promulgated by~~  
10 ~~the Judicial Council for this purpose.~~

11 ~~-(2) Litigants who apply for permission to proceed in forma~~  
12 ~~pauperis pursuant to subparagraph (B) or (C) of paragraph (6) of~~  
13 ~~subdivision (a) shall file a financial statement under oath on a form~~  
14 ~~promulgated by, and pursuant to rules adopted by, the Judicial~~  
15 ~~Council.~~

16 ~~-(c) The forms and rules adopted by the Judicial Council shall~~  
17 ~~provide for the disclosure of the following information about the~~  
18 ~~litigant:~~

19 ~~-(1) Current street address.~~

20 ~~-(2) Occupation and employer.~~

21 ~~-(3) Monthly income and expenses.~~

22 ~~-(4) Address and value of any real property owned directly or~~  
23 ~~beneficially.~~

24 ~~-(5) Personal property with a value that exceeds five hundred~~  
25 ~~dollars (\$500).~~

26 ~~-The information furnished by the litigant shall be used by the~~  
27 ~~court in determining his or her ability to pay all or a portion of~~  
28 ~~the fees and costs.~~

29 ~~-(d) At any time after the court has granted a litigant permission~~  
30 ~~to proceed in forma pauperis and prior to final disposition of the~~  
31 ~~case, the clerk of the court, county financial officer, or other~~  
32 ~~appropriate county officer may notify the court of any changed~~  
33 ~~financial circumstances which may enable the litigant to pay all or a~~  
34 ~~portion of the fees and costs which had been waived. The court may~~  
35 ~~authorize the clerk of the court, county financial officer, or other~~  
36 ~~appropriate county officer to require the litigant to appear before~~  
37 ~~and be examined by the person authorized to ascertain the validity of~~  
38 ~~their indigent status. However, no litigant shall be required to~~  
39 ~~appear more than once in any four month period. A litigant proceeding~~  
40 ~~in forma pauperis shall notify the court within five days of any~~  
41 ~~settlement or monetary consideration received in settlement of this~~  
42 ~~litigation and of any other change in financial circumstances that~~  
43 ~~affects the litigant's ability to pay court fees and costs. After the~~

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1 litigant either (1) appears before and is examined by the person  
2 authorized to ascertain the validity of his or her indigent status or  
3 (2) notifies the court of a change in financial circumstances, the  
4 court may then order the litigant to pay to the court the sum and in  
5 any manner the court believes is compatible with the litigant's  
6 financial ability.

7 ~~In any action or proceeding in which the litigant whose fees and~~  
8 ~~costs have been waived would have been entitled to recover those fees~~  
9 ~~and costs from another party to the action or proceeding had they~~  
10 ~~been paid, the court may assess the amount of the waived fees and~~  
11 ~~costs against the other party and order the other party to pay that~~  
12 ~~sum to the court or to the clerk and serving and levying officers~~  
13 ~~respectively, or the court may order the amount of the waived fees~~  
14 ~~and costs added to the judgment and so identified by the clerk.~~

15 ~~Execution may be issued on any order provided for in this~~  
16 ~~subdivision in the same manner as on a judgment in a civil action.~~  
17 ~~When an amount equal to the sum due and payable to the clerk has been~~  
18 ~~collected upon the judgment, these amounts shall be remitted to the~~  
19 ~~clerk within 30 days. Thereafter, when an amount equal to the sum due~~  
20 ~~to the serving and levying officers has been collected upon the~~  
21 ~~judgment, these amounts shall be due and payable to those officers~~  
22 ~~and shall be remitted within 30 days. If the remittance is not~~  
23 ~~received by the clerk within 30 days or there is a filing of a~~  
24 ~~partial satisfaction of judgment in an amount at least equal to the~~  
25 ~~fees and costs payable to the clerk or a satisfaction of judgment has~~  
26 ~~been filed, notwithstanding any other provision of law, the court~~  
27 ~~may issue an abstract of judgment, writ of execution, or both for~~  
28 ~~recovery of those sums, plus the fees for issuance and execution and~~  
29 ~~an additional fee for administering this section. The court shall~~  
30 ~~establish a fee, not to exceed actual costs of administering this~~  
31 ~~subdivision and in no case exceeding twenty five dollars (\$25), which~~  
32 ~~shall be added to the writ of execution.~~

33 ~~-(e) Notwithstanding subdivision (a), a person who is sentenced to~~  
34 ~~imprisonment in a state prison or confined in a county jail and,~~  
35 ~~during the period of imprisonment or confinement, files a civil~~  
36 ~~action or notice of appeal of a civil action in forma pauperis shall~~  
37 ~~be required to pay the full amount of the filing fee to the extent~~  
38 ~~provided in this subdivision.~~

39 ~~-(1) In addition to the form required by this section for filing in~~  
40 ~~forma pauperis, an inmate shall file a copy of a statement of~~  
41 ~~account for any sums due to the inmate for the six-month period~~  
42 ~~immediately preceding the filing of the civil action or notice of~~  
43 ~~appeal of a civil action. This copy shall be certified by the~~

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1 appropriate official of the Department of Corrections or a county  
2 jail.

3 ~~-(2) Upon filing the civil action or notice of appeal of a civil~~  
4 ~~action, the court shall assess, and when funds exist, collect, as a~~  
5 ~~partial payment of any required court fees, an initial partial filing~~  
6 ~~fee of 20 percent of the greater of one of the following:~~

7 ~~-(A) The average monthly deposits to the inmate's account.~~

8 ~~-(B) The average monthly balance in the inmate's account for the~~  
9 ~~six month period immediately preceding the filing of the civil action~~  
10 ~~or notice of appeal.~~

11 ~~-(3) After payment of the initial partial filing fee, the inmate~~  
12 ~~shall be required to make monthly payments of 20 percent of the~~  
13 ~~preceding month's income credited to the inmate's account. The~~  
14 ~~Department of Corrections shall forward payments from this account to~~  
15 ~~the clerk of the court each time the amount in the account exceeds~~  
16 ~~ten dollars (\$10) until the filing fees are paid.~~

17 ~~-(4) In no event shall the filing fee collected pursuant to this~~  
18 ~~subdivision exceed the amount of fees permitted by law for the~~  
19 ~~commencement of a civil action or an appeal of a civil action.~~

20 ~~-(5) In no event shall an inmate be prohibited from bringing a~~  
21 ~~civil action or appeal of a civil action solely because the inmate~~  
22 ~~has no assets and no means to pay the initial partial filing fee.~~

### 24 Article 6. Waiver of Court Fees and Costs

26 The Legislature finds and declares that our legal system cannot claim to provide  
27 "equal justice under law" unless all persons have access to the courts without  
28 regard to their economic means. California law and court procedures should  
29 ensure that court fees are not a barrier to court access for those with insufficient  
30 economic means to pay those fees.

31 Fiscal responsibility should be tempered with concern for litigants' rights to access  
32 the justice system. The procedure for allowing the poor to use court services  
33 without paying ordinary fees must be one that applies rules fairly to similarly  
34 situated persons; must be accessible to those with limited knowledge of court  
35 processes; and must not delay access to court services. The procedure for  
36 determining when a litigant may file a lawsuit without paying a fee must not  
37 interfere with court access for those without the financial means to do so.

38 The Legislature further finds and declares that those who are able to pay court fees  
39 in fact should do so and that courts should be allowed to recover previously  
40 waived fees when a litigant has obtained a substantial judgment or settlement.



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### 1 **68630.010** [Definition of initial waiver of court fees and costs]

2  
3 An initial fee waiver must be granted by the court at any stage of the proceedings  
4 at both the appellate and trial court levels whenever an applicant meets the  
5 standards of eligibility and application requirements under Sections 68630.020 and  
6 68630.030. An initial fee waiver excuses the applicant from paying fees for the  
7 first pleading and other court fees and costs as specified in rules adopted by the  
8 Judicial Council unless the court orders the applicant to make partial payments  
9 under Section 68630.020(c), 68630.060(d), or 68630.070(d). Under circumstances  
10 set forth in Section 68630.060, the court may reconsider the initial fee waiver and  
11 order the fee waiver withdrawn for future fees and costs or deny the fee waiver  
12 retroactively. At the end of the case, the court may recover fees and costs that  
13 were initially waived under circumstances set forth in Section 68630.070.

### 14 15 **68630.020** [Criteria for eligibility]

16  
17 Permission to proceed without paying court fees and costs because of an  
18 applicant's financial condition must be granted initially to all of the following:

19  
20 (a) [Public assistance] Persons who are receiving public benefits under one or  
21 more of the following programs:

22  
23 (1) Supplemental Security Income (SSI) and State Supplementary Payment  
24 (SSP) programs (Welfare and Institutions Code Section 12200 et seq.)

25  
26 (2) California Work Opportunity and Responsibility to Kids Act (CalWORKs)  
27 (Welfare and Institutions Code Section 11200 et seq.).

28  
29 (3) Food Stamps (7 United States Code Section 2011 et seq.).

30  
31 (4) County Relief, General Relief (GR), or General Assistance (GA) (Section  
32 17000 of the Welfare and Institutions Code).

33  
34 (5) Cash Assistance Program for Immigrants (CAPI) (Welfare and Institutions  
35 Code Section 18940 et seq.).

36  
37 (6) In-Home Supportive Services (IHSS) (Welfare and Institutions Code  
38 Section 12300 et seq.).

39  
40 (7) Medi-Cal (Welfare and Institutions Code Section 14000 et seq.).

41  
42 (b) [125% of federal poverty guidelines] Persons whose monthly income is 125  
43 percent or less of the current poverty guidelines updated periodically in the

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1 Federal Register by the U.S. Department of Health and Human Services under  
2 the authority of Section 9902(2) of Title 42 of the United States Code.

- 3
- 4 (c) [Unable to meet common necessities of life] Persons who, as individually  
5 determined by the court, cannot pay court fees without using money that  
6 normally would pay for the common necessities of life for the applicant and  
7 the applicant's family. If the court finds that an applicant under this  
8 subdivision can pay a portion of court fees or can pay court fees over a period  
9 of time or under some other equitable arrangement without using money that  
10 normally would pay for the common necessities of life for the applicant and  
11 the applicant's family, the court may grant a partial initial fee waiver using the  
12 notice and hearing procedures set forth in Section 68630.040(d)(5). "Common  
13 necessities of life," as used in this article, shall be interpreted consistently with  
14 the use of that term in Section 706.051 of the Code of Civil Procedure.

15

16 **68630.030** [Application]

- 17
- 18 (a) [Public assistance] An applicant for an initial fee waiver under Section  
19 68630.020(a) must complete, under penalty of perjury, a Judicial Council  
20 application form requiring the applicant to list his or her current street address,  
21 occupation, and employer and the type of public benefits that he or she is  
22 receiving. At the time the application is submitted, the applicant shall not be  
23 required to provide documents supporting receipt of public benefits or to fill  
24 out additional parts of the application form.
- 25
- 26 (b) [125% of federal poverty guidelines] An applicant for an initial fee waiver  
27 under Section 68630.020(b) must complete, under penalty of perjury, a Judicial  
28 Council application form requiring the applicant to provide his or her current  
29 street address, occupation, and employer and complete a financial statement  
30 showing monthly and/or yearly income as determined under rules and on forms  
31 adopted by the Judicial Council. At the time the application is submitted, the  
32 applicant shall not be required to provide documents to prove income,  
33 dependents, or expenses or to fill out additional parts of the application form.
- 34
- 35 (c) [Unable to meet common necessities of life] An applicant for an initial fee  
36 waiver under Section 68630.020(c) must complete, under penalty of perjury, a  
37 Judicial Council application form requiring the applicant to provide his or her  
38 current street address, occupation, and employer and to complete a financial  
39 statement showing monthly and/or yearly income and expenses and a summary  
40 of assets and liabilities as determined under rules and on forms adopted by the  
41 Judicial Council. At the time the application is submitted, the applicant shall  
42 not be required to provide documents to prove income, dependents or  
43 expenses.

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(d) [Judicial Council forms] The clerk shall provide forms adopted by the Judicial Council pursuant to this article without charge to any person who requests it or indicates that he or she is unable to pay any court fee or cost. No applicant shall be required to complete any form as part of his or her application under this rule other than forms adopted by the Judicial Council.

(e) [Notice] An applicant for an initial fee waiver must be informed that, at a later date, the court may require proof of receipt of benefits or financial information to verify eligibility as provided in Section 68630.060 and that the court may seek reimbursement of initially waived fees under circumstances set forth in Section 68630.070. This notice requirement is satisfied if the information is provided on the Judicial Council fee waiver application form.

(f) [Confidentiality] Financial information provided by an applicant will be kept confidential by the court. No person shall have access to the application except the court and authorized court personnel and any person authorized by the applicant. No person shall reveal any information contained in the application except as authorized by law. Hearings regarding whether to grant or deny a fee waiver request shall be held in camera, and the court shall exclude all persons except court staff, the applicant, those present with the applicant's consent, and any witness being examined. The fact that an applicant's fees and costs have been initially waived and the amount of the waived fees and costs are not confidential. The Judicial Council will adopt procedures to keep the financial information confidential and to consider a request seeking that confidential information.

### **68630.040** [Application processing and determination]

(a) [Processing by clerk] All applications for an initial fee waiver must be accepted for filing. If an application is submitted without all required information filled out on the form, the clerk may request that the applicant supply the omitted information but may not refuse to file the application and may not refuse to file any pleadings accompanying the application on the ground that the fee has not been paid. The clerk may not request that the applicant furnish information that is not required on the Judicial Council fee waiver application form. At the time the application is submitted, the clerk may not request that the applicant provide documents to support the information other than those required under Section 68630.030.

(b) [Filing of pleading] If a person has filed an application for an initial fee waiver, the person must be permitted to file his or her pleading or other papers immediately, without paying any fees.

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- 1  
2 (c) [Delegation to clerk to approve] The court may delegate to the clerk the  
3 authority to grant applications for an initial fee waiver that meet the standards  
4 of eligibility and application requirements set forth in Sections 68630.020 and  
5 68630.030. The court may not delegate to a clerk the authority to deny or to  
6 partially grant an application for an initial fee waiver.  
7
- 8 (d) [Determination of application] The fee waiver application shall be determined  
9 without regard to the substance of the applicant's pleading or other paper filed,  
10 if any. On review of an application for an initial fee waiver the court must:  
11
- 12 (1) Grant the application if the information provided on the application  
13 establishes that the applicant meets the criteria for eligibility and  
14 application requirements set forth in Sections 68630.020 and 68630.030.  
15
- 16 (2) Deny the application if the application is incomplete. If the application is  
17 denied on this basis, the applicant must be given notice of the reason for  
18 denial and a reasonable opportunity to submit a revised application or to  
19 request a hearing.  
20
- 21 (3) Deny the application if the information provided on the application  
22 conclusively establishes that the applicant is not eligible for an initial fee  
23 waiver under Section 68630.020 on the grounds requested. If the  
24 application is denied on this basis, the applicant must be given notice of the  
25 specific reason for denial and a reasonable opportunity to request a hearing.  
26 The applicant may submit additional information at the hearing.  
27
- 28 (4) Set an eligibility hearing if the court has good reason to doubt the veracity  
29 of the factual statements in the application. The applicant must be given 10  
30 days' notice of the hearing and the specific reason the court doubts the  
31 veracity of the factual statements. The court may require that specified,  
32 reasonably available additional information be provided concerning the  
33 truthfulness of the factual statements in the application, but the court may  
34 not require submission of information that is not related to the criteria for  
35 eligibility and application requirements set forth in Sections 68630.020 and  
36 68630.030.  
37
- 38 (5) Set an eligibility hearing if the information provided on the application  
39 does not establish that the applicant meets the criteria for eligibility and  
40 application requirements set forth in Sections 68630.020 and 68630.030 but  
41 that information does not conclusively establish that the applicant is not  
42 eligible for an initial fee waiver on the grounds requested. The applicant  
43 must be given 10 days' notice of the hearing and the specific reason why

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the court has not granted the application. The court may require that specified, reasonably available additional information be provided but may not require submission of information that is not related to the criteria for eligibility and application requirements set forth in Sections 68630.020 and 68630.030.

After notice and an opportunity to be heard, the court may require an applicant under Section 68630.020(c) to pay a portion of court fees or to pay court fees over a period of time or under some other equitable arrangement that meets the criteria of Section 68630.020(c). The court must give a written statement of reasons if an application is denied in whole or granted in part.

(e) [Time limits] An application for an initial fee waiver is granted five court days after it is filed, unless before that time the court gives notice of action on the application as provided in subdivision (d). Any delay by the court in processing an application to initially waive court fees and costs does not count against any time limits affecting the pleadings or other papers that the applicant timely filed.

(f) [Payment of fees and costs] If an application is denied in whole or granted in part, the applicant must pay the court fees and costs that ordinarily would be charged, or make the partial payment as ordered by the court, within 10 days after the clerk gives notice of the denial unless within that time the applicant submits a new application or requests a hearing under subdivision (d). If the applicant does not pay on time, the clerk must void the papers that were filed without payment of the court fees and costs.

(g) [Resubmission] Any person who applies for an initial fee waiver must indicate whether he or she filed a prior application for an initial fee waiver in the same case within the previous six months and must attach a copy if one is reasonably available.

### **68630.050** [Fees for incarcerated litigants]

(a) [Fees to be paid] Notwithstanding any other provision of this article, persons who are sentenced to a state prison or confined in a county jail must pay the full amount of the filing fees and costs to the extent provided in this section.

(b) [Application for initial waiver] To be eligible for an initial fee waiver, a person who is sentenced to a state prison or confined in a county jail must complete, under penalty of perjury, a Judicial Council application form giving the current address of the inmate and a statement that he or she is incarcerated, together

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1 with a statement of account for any money due to the inmate for the six-month  
2 period immediately preceding the application. The form must be certified by  
3 the appropriate official of the Department of Corrections and Rehabilitation or  
4 the county jail.

5  
6 (c) [Initial assessment and collection of fees] When the pleadings or other papers  
7 are filed, the court will assess and, if funds exist, collect as partial payment a  
8 partial filing fee of 20 percent of the greater of one of the following:

9  
10 (1) The average monthly deposits to the inmate's account.

11  
12 (2) The average monthly balance in the inmate's account for the six-month  
13 period immediately preceding the application.

14  
15 (d) [Subsequent assessment and collection of fees] After the initial filing fee is  
16 partially paid, the inmate will be required to make monthly payments of 20  
17 percent of the preceding month's income credited to the inmate's account. The  
18 Department of Corrections and Rehabilitation will forward payments from this  
19 account to the clerk of the court each time the amount in the account exceeds  
20 ten dollars (\$10) until the filing fees are paid in full.

21  
22 (e) [Limit on collection of fees] The fees collected by the court under this section  
23 may not exceed the amount of the fees that would be charged to a person who  
24 is not incarcerated.

25  
26 (f) [Processing by clerk] The court may delegate to a clerk the authority to process  
27 requests for fee waivers from incarcerated persons under this section.

28  
29 (g) [Court access] In no event will an inmate be prohibited from filing pleadings or  
30 other papers solely because the inmate has no assets and no means to partially  
31 pay the initial filing fee.

32  
33 **68630.060** [Reconsideration of fees and costs initially waived]

34  
35 (a) [Notification of changed circumstances] After the court has granted an initial  
36 fee waiver in whole or in part and before final disposition of the case, the  
37 person who received the initial fee waiver must notify the court within five  
38 days of any change in financial circumstances that affects his or her ability to  
39 pay all or a portion of the court fees and costs that were initially waived.

40  
41 (b) [Reconsideration on the court's motion] If, before or at the time of final  
42 disposition of the case, the court obtains information (including information  
43 derived from the court file) suggesting that a person whose fees and costs were

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1 initially waived is not entitled to a fee waiver, or that the person's financial  
2 condition has changed so that he or she is no longer eligible for a fee waiver,  
3 the court may require the person to appear at a court hearing by giving the  
4 applicant no less than 10 days' written notice of the hearing. The court may  
5 require the person to provide reasonably available evidence, including financial  
6 information, to support his or her eligibility for the fee waiver, but the court  
7 may not require submission of information that is not related to the criteria for  
8 eligibility and application requirements set forth in Sections 68630.020 and  
9 68630.030. The court may not conduct such a hearing more often than once  
10 every six months.

11  
12 (c) [Reconsideration at final disposition] At the time of final disposition of the  
13 case, the court may give notice that a person whose fees and costs were  
14 initially waived must appear at a court hearing by giving the applicant no less  
15 than 10 days' written notice of the hearing. The court may require the person to  
16 provide reasonably available evidence, including financial information, to  
17 support his or her eligibility for the fee waiver, but the court may not require  
18 submission of information that is not related to the criteria for eligibility and  
19 application requirements set forth in Sections 68630.020 and 68630.030. This  
20 subdivision does not apply if the court conducted a review under subdivision  
21 (b) within six months prior to the final disposition of the case.

22  
23 (d) [Retroactive withdrawal] In conducting a review under subdivision (b) or (c), if  
24 the court determines that the person was not entitled to the initial fee waiver at  
25 the time it was granted, the court may order the waiver withdrawn  
26 retroactively. The court may order the person to pay to the court immediately,  
27 or over a period of time, all or part of the fees that were initially waived. The  
28 court must give the person a minimum of 10 court days to begin paying the full  
29 or partial fees.

30  
31 (e) [Prospective withdrawal] In conducting a review under subdivision (a), (b), or  
32 (c), if the court determines that the person's financial circumstances have  
33 changed since the grant of the initial fee waiver or partial initial fee waiver, the  
34 court may order the fee waiver withdrawn prospectively from the time that the  
35 person no longer was eligible for a fee waiver. The court may order the person  
36 to pay to the court immediately, or over a period of time, all or part of the fees  
37 that were waived since the time that the person no longer was eligible for a fee  
38 waiver. The court may order the person to begin paying all or part of the court  
39 fees assessed for future activities in the case. The court must give the person a  
40 minimum of 10 court days to begin paying the full or partial fees.

41  
42 (f) [Services obtained in bad faith] If the court obtains information suggesting that  
43 a litigant whose fees and costs were initially waived is obtaining court services

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in bad faith, or for an improper purpose such as to harass or cause unnecessary delay, or to needlessly increase the cost of litigation, the court may give notice that the litigant must appear at a court hearing to consider whether limitations should be placed on court services for which fees are initially waived.

### **68630.070** [Recovery of fees and costs initially waived by court]

(a) [Waived fees and costs added to judgment] When judgment is entered in a civil case in favor of a party whose fees and costs were initially waived, the waived fees and costs must be added to the judgment, including any judgment by default, regardless of the amount of the judgment. This provision does not apply to unlawful detainer cases.

(1) The waived fees and costs must be paid to the court before the prevailing party whose fees and costs were initially waived collects on the judgment. This must be stated in the judgment.

(2) The court may refuse to enter partial or full satisfaction of the judgment until the waived fees and costs have been paid. The party asking the court to enter satisfaction of judgment must declare under penalty of perjury that the waived fees and costs have been paid to the court.

(b) [Court lien on settlement] When a party in a civil case whose fees and costs were initially waived recovers ten thousand dollars (\$10,000) or more in value by way of settlement, compromise, arbitration award, mediation settlement, or other recovery, the waived fees and costs must be paid to the court out of the settlement, compromise, award, or other recovery.

(1) The court will have a lien on any settlement, compromise, award, or other recovery in the amount of all the court fees and costs initially waived.

(2) The waived fees and costs must first be paid to the court before the party whose fees and costs were initially waived receives anything of value under the settlement, compromise, award, or other recovery.

(3) Notice of the lien will be given to the parties under rules and on forms adopted by the Judicial Council, and the Judicial Council will provide by rule the procedures by which a party subject to a lien can determine the amount of the lien.

(4) The court may refuse to enter a request for dismissal in the case until the lien is satisfied. A party filing a request for dismissal must declare under penalty of perjury that the lien has been paid or that any settlement,



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1       compromise, award, or other recovery has a value less than ten thousand  
2       dollars (\$10,000).

3  
4       (5) In a case in which an initial waiver of fees and costs was granted, or if a  
5       request to dismiss the case is filed without the declaration, the court may  
6       issue an order to show cause why the lien should not be enforced and why  
7       the court should not enter a judgment making the parties jointly and  
8       severally liable to the court for initially waived fees and costs.

9  
10      (c) [Family law] When judgment is entered in a family law case, the court must  
11      consider whether a party who did not receive a fee waiver has the ability to pay  
12      all or part of the other party's waived fees. If the court orders payment of the  
13      other party's waived fees and the party required to pay is not present in court at  
14      the time judgment is entered, the party required to pay must be given notice  
15      and an opportunity for a hearing to request that the court set aside the order. A  
16      request for a hearing must be made in writing within 20 days after service of  
17      the notice of the court order. If a request for hearing is made, the order for  
18      payment of initially waived fees may not be enforced until after the hearing.

19  
20      (d) [Review of changed circumstances—family law] When a judgment is entered  
21      in a family law case, the court must consider whether a party's circumstances  
22      have changed so that it is reasonable to require a party who received an initial  
23      fee waiver to pay all or part of the fees that were initially waived. In  
24      determining whether a party should be required to pay all or part of the fees  
25      initially waived, the court shall use the criteria for eligibility set forth in  
26      Section 68630.020. If the court orders the party to pay all or part of the fees  
27      that were initially waived, the party required to pay must be given notice and  
28      an opportunity for a hearing to request that the court set aside the order. A  
29      request for a hearing must be made in writing within 20 days after service of  
30      the notice of the court order. If a request for hearing is made, the order for  
31      payment of initially waived fees may not be enforced pending hearing on the  
32      matter.

### 33 34      **68630.080** [Enforcement of court order to pay fees]

35  
36      (a) The court may execute on any order for payment of initially waived fees and  
37      costs in the same manner as on a judgment in a civil action. The court may  
38      issue an abstract of judgment, a writ of execution, or both, for (1) recovery of  
39      the initially waived fees and costs as ordered, plus (2) fees for issuing the  
40      abstract of judgment, writ of execution, or both, plus (3) a twenty-five dollar  
41      (\$25) fee for administering this subdivision, plus (4) an amount due to levying  
42      officers for serving and collecting on the judgment that will all be added to the  
43      writ of execution. Upon collection, the initially waived fees and costs, the fees

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1 for issuing the abstract of judgment and writ of execution, and the twenty-five  
2 dollar ( \$25) administrative fee must be remitted to the court. Thereafter, the  
3 amount due to the levying officers for serving and collecting on the judgment  
4 will be paid.  
5

- 6 (b) The court will be entitled to recover attorney fees and costs if it must bring an  
7 action to enforce its right to recover waived fees and costs under a lien,  
8 judgment, or order.  
9

10 **68630.090** [Expiration of fee waiver order]  
11

12 An initial fee waiver will expire 60 days after the judgment, dismissal, or other  
13 final disposition of the case. In family law cases the initial fee waiver will not  
14 expire so long as child custody or support orders are in effect.  
15

16 **68630.100** [Judicial Council rules and forms to implement this article]  
17

18 The Judicial Council shall adopt rules and forms to establish uniform procedures  
19 to implement the provisions of this article, including but not limited to:  
20

- 21 (a) Procedures for considering and determining applications to proceed without  
22 paying court fees and costs at every stage of the proceedings, including at the  
23 trial and appellate levels of the court.  
24
- 25 (b) Prescribing the court fees and costs that may be waived at every stage of the  
26 proceedings.  
27
- 28 (c) Procedures for giving notice of lien and hearings for reconsideration and  
29 recovery of initially waived fees and costs;  
30
- 31 (d) Procedures for collecting waived fees and costs.  
32
- 33 (e) Any other procedures necessary to implement the provisions of this article.